

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

PERSONALIZED MEDIA  
COMMUNICATIONS, LLC,

Plaintiff,

vs.

ZYNGA INC.

Defendant.

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Civil Action No. 2:12-cv-68-JRG-RSP

JURY DEMANDED

**ZYNGA'S TENDER OF LIMITING JURY INSTRUCTION**

1. Defendant Zynga Inc. ("Zynga") respectfully submits this Offer of Proof on the excluded *inter partes* review ("IPR") evidence. The parties have agreed that this proffer will have the same weight as if the testimony had been presented live before Zynga rested

2. Zynga tenders the following limiting jury instruction in connection with Zynga's proffer on excluded IPR evidence.

3. Given that Zynga did not present an invalidity defense based on prior art, Zynga believes that any prejudice to PMC associated with the admission of the IPR evidence could be cured with the following limiting instruction, which the Court has also rejected:

Ladies and Gentlemen of the Jury:

You are about to hear evidence of Zynga's challenge to PMC's patents at the Patent Office. The process is called *inter partes* review. You may consider this evidence solely for Zynga's good faith belief in the invalidity of the PMC patents.

You shall not consider this evidence for Zynga's enablement defense.

Dated: November 15, 2013 Respectfully Submitted,

/s/ Steven M. Zager

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served this 15<sup>th</sup> day of November, 2013, with a copy of this document via the Court's CM/ECF system pursuant to Local Rule CV-5(a)(3).

/s/ Steven M. Zager

Steven M. Zager